GOVERNMENT OF MYSORE

FOOD, CIVIL SUPPLIES AND LABOUR DEPARTMENT

Labour Dispute.—Industrial Dispute between the Workmen and the Management of M/s. Byatarayappa and Brothers, Mysore.

Award of the Labour Court, Bangalore Published.

Read the following Papers:

(1) Letter No. 937-88/72-73, dated 31st October 1972 from Sri P. Srinivasacharya, Presiding Officer, Labour Court, Bangalore.

BEFORE THE PRESIDING OFFICER, LABOUR COURT, BANGALORE.

Dated this 28th day of October 1972.

Present:

Sri P. Srinivasacharya, B.A., LL.B., Presiding Officer.
Reference No. 29 of 1972.

Workmen represented by the President, Mysore Division General Labour Union, Mysore. *I Party.*

Vs

The Management of M/s. Byatarayappa and Bros, Mysore *II Party.*

Reference:—Government Order No. FCL 1341 LLD 71, dated 23rd February 1972.

AWARD.

1. The Government of Mysore in their Order No. FCL 1341 LLD 71, dated 23rd February 1972 have referred an industrial dispute existing between the above named parties to this court for adjudication on the points of dispute noted below:—

"Is the management of M/s Byatarayappa and Brothers, Door No. 2391, Basaveswara Road, Mysore, is justified in refusing employment of Sri Subbaiah with effect from 11th May 1971? If not, what relief is the said workman entitled to?"

2. On behalf of the first party claim statement is filed as follows: The first party workman was a permanent employee and

his services were terminated from 11th May 1971; he had rendered service of 20 years without any complaint; the termination without notice or cause is not justified; therefore he is entitled to reinstatement with back wages and continuity of service.

3. On behalf of the second party objection statement is filed as follows. The second party was being run by the brothers of Byatarayappa. Byatarayappa's on is a disabled person; hence the first party was appointed as man-servant to look after him; he was in service fo only two months and since he was not suited nor was reliable he was terminated. The present claim of the first party is not tenable, and is liable to be rejected.

4. The following issues were framed:

(1) Whether 2nd party proves that M/s Byatarayappa and brothers, Door No. 2301, Basaweswara Road is not in existence at present?

(2) Whether 2nd party proves that first party was appointed as man-servant to look after Byatarayappa's disabled son and has nothing to do with the firm mentioned in the reference?

(3) To what relief first party is entitled?

5. The first party workman in his evidence has admitted that the firm is closed after he was removed. M. W. 1 Byatarayappa, M. W. 1 in his evidence, however states that his brothers closed the factory about 6 or 7 years ago. From the admission of the workman himself it is clear that the factory is not in existence at present. Hence issue No. 1 is answered in the affirmative.

6. In the present case the contention of the first party is that he was working in the paper cover factory and had put in a service of about 20 years. On the other hand the contention of M. W. 1 is that he was only engaged to look after his disabled child and he did that work only for about two months. In order to prove that he had been working from 1951 the first party had produced an attendence register said to have been maintained by the second party. According to him Sl. 4 "Subba" appearing in the month of September 1951 pertains to him. This is an old register which has been cut into half and only top portion is produced. The entries made therein and the way they have been made as also its very appearance go to throw a lot of suspicion about its genuineness. The version of the first party is that the

second party had sent waste paper for sale and in that found the said register. I am of opinion that this is a very unacceptable explanation. On the other hand M.W. 1 says that the said Register does not relate to him. In addition to produce the said Register Ex. W. 5 the workman has also examined two witnesses who say that they have seen the first party working in the paper cover factory from the past 18-20 years. During cross-examination they admit that they are friends of the first party and were playing with him in childhood. W. W. 3 has gone to the factory according to him only once that too about 5 or 6 years ago. W. E. 3 in his examination in chief says that the first party was working for ten to eighteen years. I am not at all satisfied about the genuineness of the register Ex W. 5 as also the truthfulness of the witnesses examined on behalf of the workman. I therefore hold that the first party has failed to prove that he had been working in the paper factory from 1951 as alleged by him.

7. Even the fact whether the first party ever worked in the paper cover factory itself is doubtful. Ex. W. 1 to 4 produced by the first party are chits in which some requisition for paper is written. It is not known to whom it relates. The name of the second party is not written on them. They are all small chits. Two of them are written in the year 1971. On the other hand the version of the second party is that the paper cover factory which was run by the brothers of Byatarayappa was closed 6 or 7 years ago. I am therefore of the opinion that the first party has not been able to establish that he was working in the said factory as alleged by him. On the other hand M. W. 1 has stated that he appointed the first party to look after his disabled son and he worked for two months and since his work and character were not satisfactory he was replaced by another person. This version of M W. 1 appears to be more probable. If really the first party was working in the paper cover factory for such a long time as alleged by him I am of opinion he could have produced more reliable and satisfactory evidence than what he has done. I therefore believe the evidence of M. W. 1 and hold that the first party was only a domestic servant of M. W 1 engaged for looking after his disabled son. The consequence of this finding would be that he will not be entitled to invoke the provisions of the Industrial Disputes Act, 1947.

8. In the result I pass an award rejecting the reference. No costs.

P. Srinivasacharya,
Presiding Officer,
Labour Court, Bangalore.

ORDER

Bangalore, dated 23rd November 1972.

S. O. 388.—WHEREAS by State Government Order No. FCL 134 LLD 71, dated 23rd February 1972, the Industrial Dispute between the workmen and the management of M/s. Byatarayappa and Brothers Mysore was referred to the Labour Court, Bangalore for adjudication.

AND WHEREAS, the Labour Court Bangalore has submitted to the State Government its award in respect of the said Industrial Dispute.

NOW, THEREFORE, in exercise of the powers conferred by Section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947), the Government of Mysore are pleased to direct the publication of the said award as above, in the *Mysore Gazette.*

[No. FCL 226 LLA 72.]

By Order and in the name of the Governor of Mysore,

ANIRUDDHA DESAI,
Under Secretary to Government,
Food, Civil Supplies and Labour Department.

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